

HOME/HTF Affordable Housing Development Grant Administration Manual
Tools and Resources
Sample Subrecipient Agreement

For HOME and HTF projects that pass funds through grantees to subrecipients, a subrecipient agreement should be prepared. Although its staff do not approve such agreements, Commerce requests the opportunity to review and provide comment. Final, notarized agreements must be submitted to Commerce for recordkeeping and should be retained by the grantee in the project file.

SUBRECIPIENT AGREEMENT

**[LOCAL GOVERNMENT]
AND [SUBRECIPIENT/NON-PROFIT]**

THIS AGREEMENT is entered into on the [] day of [], 20[], by and between the [Local Government], hereinafter referred to as “the City/County,” and [Subrecipient/non-profit], a private, non-profit corporation incorporated under the laws of Montana, hereinafter referred to as “the Subrecipient.”

WITNESSETH THAT

WHEREAS, the Subrecipient desires to contract with the City/County to carry out [HOME/HTF] Housing [Construction/Rehabilitation] activities to [list activities identified in the HOME/HTF Contract under Scope of Work] (the “Grantee’s [HOME/HTF] Program”); and

WHEREAS, the Subrecipient agrees to operate, manage, and maintain the Program in a manner so as to be available to all residents of the greater City/County area without regard to race, color, religion, creed, political ideas, gender, age, marital status, physical or mental disability, or national origin and with granting agencies required guidelines; and

WHEREAS, the City/County has applied for and been awarded a grant under Montana’s [HOME/HTF] Program; and

WHEREAS, the parties to this Agreement understand that neither party has in any way abrogated any of its individual powers, and that this Agreement does not create any new organization or legal entity.

NOW, THEREFORE, THE CITY/COUNTY AND THE SUBRECIPIENT MUTUALLY AGREE AS FOLLOWS:

- I. Responsibilities Delegated to the Subrecipient
 - A. The Grantee agrees to carry out its [HOME/HTF] Program in accordance with the terms and conditions of Contract #MT-[] between the Montana Department of Commerce (Commerce) and the City/County, attached hereto and specifically incorporated herein by this reference; the Commerce HOME/HTF Grant Administration Manual; all applicable sections of 2 CFR 200 and 24 CFR 92 and 93, as applicable; and any other requirements for HOME/HTF as set

forth by HUD, including but not limited to OMB Circular A-110, OMB Circular A-122, and any revisions thereto.

- B. The Subrecipient agrees to carry out the duties and responsibilities assigned to it in the Project Management Plan, approved by Commerce on [_____] [___], 20[___], attached hereto and specifically incorporated herein by this reference.
- C. Following the completion of the Project, the Subrecipient will submit annual reports to the City/County, on a date to be specified by the City/County, unless later excused by new regulation or agreement. These annual reports shall include:
 - 1. A copy of the Subrecipient's annual IRS 990 tax form; and
 - 2. A copy of the Subrecipient's annual Treasurer's report; and
 - 3. Proof of adequate insurance on each facility acquired in whole or in part with Grantee's [HOME/HTF] Program funds.
- D. The Subrecipient will comply with the applicable procurement requirements set forth 2 CFR 200.320. The Subrecipient will provide copies of all quotes and any other construction documents as requested by the City/County and Commerce. The Grantee shall procure all materials, property, or services in accordance with the requirements of Attachment O of OMB Circular A-110, Procurement Standards.

II. Duration of the Agreement

- A. This Agreement takes effect when the following conditions are satisfied:
 - 1. Commerce and the City/County have executed the [HOME/HTF] Grant Contract;
 - 2. Commerce has approved the City's/County's Request for Release of Funds and Certification (HOME) or has authorized the City/County to Request Reimbursement of Funds (HTF);
 - 3. The attorney for the City/County and the attorney for the Subrecipient have approved this Agreement as to form and content; and
 - 4. The City/County Manager and the Subrecipient's Executive Director have each reviewed this Agreement, agreed fully to its terms and conditions, and executed the same.
- B. This Agreement will be in effect for the period of affordability for activity, which may be up to thirty (30) years from the date of completion of the City's/County's [HOME/HTF] Program, depending on the amount of assistance provided, as referenced in [HOME/HTF] Housing [Construction/Rehabilitation] application and guidelines.

III. Administration

- A. The Subrecipient does not assume the City's/County's environmental responsibilities described at 24 CFR 92.352 (HOME) or 24 CFR 93.301 (HTF), as applicable.
- B. The Subrecipient does not assume the City's/County's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

IV. Indemnification

The Grantee shall indemnify and hold harmless the City/County, the City/County Community Development Department, and their agents and employees from and against all claims, damages, losses and expenses, including attorney fees arising out of, or resulting from, the performance of the work, provided that any such claim, damage, loss, or expense which is:

- 1. attributable to bodily injury, sickness, disease or death or to damage or destruction of tangible property, other than the work itself, including the loss and use resulting there from; and,
- 2. caused in whole or in part by any negligent act or omission of the contractor(s), and subcontractor(s), or anyone directly or indirectly employed by any one of them or anyone else, for whose acts any of them may be liable, regardless whether or not it is caused in part or by party indemnified hereunder.

V. Debarment

The Subrecipient certifies and agrees to ensure during the term of this Agreement that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or otherwise excluded from or ineligible for participation in this Agreement by any governmental department or agency or in any Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

VI. Access to and Retention of Records

- A. In accordance with the requirements of 24 CFR 92.508 (HOME) and 24 CFR 92.407 (HTF), the Subrecipient shall create and retain records supporting the services covered by this Agreement, including but not limited to financial records, supporting documents, and such other records as are required by law or other authority, for a period of five (5) years after either the completion date of this Agreement or the conclusion of any claim, litigation, or exception relating to this Agreement taken by the State of Montana, the City/County, or third party, whichever is later. These records will be kept in the Subrecipient's offices in [_____], Montana.
- B. In accordance with the requirements of 24 CFR 92.508 (HOME) and 24 CFR 92.407 (HTF), the Subrecipient shall provide Commerce, HUD, Comptroller General of the United States, Montana Legislative Auditor, or their authorized agents access to any records necessary to determine compliance with the Agreement and to make audits, examinations, excerpts, and transcripts.

VII. Progress Reports

The Subrecipient shall submit regular Progress Reports to the City/County in the form, content, and frequency as required by the City/County and Commerce.

VIII. Assignment, Transfer, and Subcontracting

The Subrecipient may not assign, transfer, or subcontract any portion of this Agreement without prior written approval by the City/County and Commerce. If such approval is granted, the Subrecipient accepts responsibility for the adherence to the terms of this Agreement by such contractors, subcontractors, or subrecipient entities and by any public or private agents or agencies to which it delegates authority to carry out any portion(s) of this Agreement.

IX. Payment Procedures

The City/County will pay to the Subrecipient funds made available under the City's/County's [HOME/HTF] Program based upon information submitted by the Subrecipient and consistent with any approved budget and Commerce policy concerning payments. Payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. In addition, the City/County reserves the right to liquidate funds available under this Agreement for costs incurred by the City/County on behalf of the Subrecipient.

X. Suspension or Termination

In accordance with 2 CFR 200, the City/County may suspend or terminate this Agreement if the Subrecipient materially fails to comply with the terms and conditions of this Agreement, or if [HOME/HTF] Grant #MT-[_____] is terminated by Commerce in accordance with the terms of the City's/County's [HOME/HTF] contract with Commerce, attached hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the [] day of [], 20[].

CITY/COUNTY

BY: _____
_____, City/County Manager

DATE: _____

ATTEST:

_____, City/County Clerk

APPROVED AS TO FORM:

_____, City/County Attorney

SUBRECIPIENT

BY: _____
_____, Executive Director

DATE: _____

STATE OF MONTANA)
 :
County of _____)

On this ____ day of _____, 20____, before me _____, a Notary Public for the State of Montana, personally appeared, _____ of the _____ in Montana, and acknowledged to me that he/she executed the written instrument on behalf of said Business.

(NOTARY SEAL)

PRINTED NAME: _____
Notary Public for the State of Montana
Residing at _____
My Commission expires _____